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August 11, 2021

VIA ECF

The Honorable Colleen McMahon
U.S. District Judge, Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Mogul v. New York Public Radio et al.*,
Case No. 1:21-CV-5882 [rel. 1:21-cv-04972-CM-RWL]

Dear Judge McMahon:

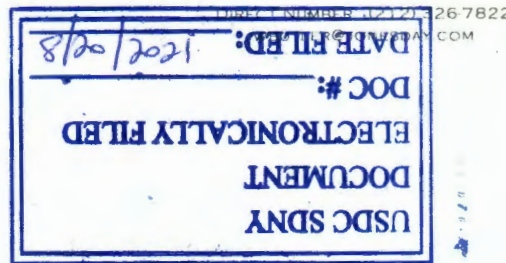
MEMO ENDORSED

We represent Defendants New York Public Radio and Audrey Cooper¹ in the above-referenced matter, and we write to request that the Court extend Defendants' deadline to move, plead, or otherwise respond to Plaintiff's Complaint until 21 days after the Court decides Plaintiff's Motion for Remand (Dkt. 21). Defendants' current deadline to respond to the Complaint is August 24, 2021. (Dkt. 11.)

This request is warranted in order to maintain a sensible briefing schedule. Plaintiff filed his remand motion on July 31, 2021 (Dkt. 21), which set August 16, 2021 as Defendants' deadline to oppose remand and August 23, 2021 (which the parties have agreed to extend to August 26) as Plaintiff's deadline to reply in support of his remand motion. Plaintiff's remand motion argues, among other things, that removal was untimely and that Plaintiff's claims are not preempted by the Labor Management Relations Act, 29 U.S.C., § 185(a), and therefore this Court lacks jurisdiction over them. (See Dkt. 22.) Defendants' forthcoming opposition to Plaintiff's remand motion will depend on the arguments that removal was timely and that Plaintiff's claims are "completely preempted" by the LMRA. See, e.g., *Vera v. Saks & Co.*, 335 F.3d 109, 116 (2d Cir. 2003). Moreover, Plaintiff has already indicated he may amend his Complaint even before this Court has issued a ruling on the remand motion. (See Dkt. 21, at 17.)

The Court should extend any deadlines for responsive pleadings or motions with respect to Plaintiff's Complaint until the remand motion is resolved; otherwise, the parties will be required to brief issues going to the merits of the case before the Court has even decided it has jurisdiction

¹ The Summons with Notice and Complaint name "WNYC" as a Defendant. Defendants assert that WNYC is not a legal entity, and thus not a proper party to this action.



Request granted.
All briefing on the motion to
dismiss is stayed pending a decision
on the motion to remand.

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over the case. Courts regularly set briefing schedules along similar lines, and this Court should do so here. *Cf. Whitehurst v. 1199SEIU United Healthcare Workers E.*, No 18-cv-1090, March 14, 2018 Order (“In light of the forthcoming motion to remand, briefing of the defendants’ proposed Rule 12(b)(6) motion will be stayed[.]”); *see id.* June 6, 2018 Order (denying motion to remand and setting briefing schedule for motions to dismiss).

This is Defendants’ second request for an extension of time to respond to the Complaint. (*See* Dkt. 8.) The Court granted Defendants’ first request which, as here, was made for the purpose of establishing an orderly briefing schedule. (*See* Dkt. 11.) Plaintiff’s counsel does not oppose this request. Defendants’ requested extension will not affect any other scheduled dates.

Respectfully submitted,

/s/ Wendy C. Butler

Wendy C. Butler

cc: Cynthia Rollings
Luna Droubi
Rebecca Pattiz